



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

**CIVIL APPLICATION (CAO) NO.1459 OF 2018
IN
MISC. CIVIL APPLICATION ST. NO.17254 OF 2018
IN
FIRST APPEAL NO. 476 OF 2005**

The New India Assurance Co. Ltd., Nagpur
vs.

The Tata Engineering & Locomotive Co. Ltd., Pimpri and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. W. Paunikar, Advocate for the applicants/appellant.
Mr. S. G. Zinjarde, Advocate for respondent Nos. 1 and 2.

CORAM : ABHAY J. MANTRI, J.

DATED : 29-07-2025

The applicant-appellant has moved these applications for condonation of delay of 1238 days in filing the application for restoration of the appeal, and to restore the appeal to its original position, for which the learned Advocate for respondent Nos. 1 and 2 has no objection.

2. None appears for respondents Nos. 3 to 6.

3. Respondent No.7 is reported to be dead, and her legal heirs are already on record. None appears on their behalf. On the oral request of the learned Advocate for the appellant, leave is granted to delete the name of respondent No.7 from the array of respondents.

4. On perusal of the record, it appears that the appeal is of the year 2005. The same was listed before the Court on 06/01/2015. On that day, the Court had passed the order and directed the appellant to file a private paper-book till 09/02/2015, failing which the appeal stands dismissed without further reference to the Court. As the appellant failed to file a

private paper-book within the stipulated period, the appeal was dismissed. Consequently, the appellant has moved these applications.

5. It further appears that though the appeal was dismissed in 2015, the appellant failed to take steps to restore the same till 30/07/2018. Thereafter, though the appellants have filed these applications, neither have they served the respondents, nor have they taken any steps to restore the appeal. All these facts prima facie indicate that the applicant-appellant was negligent in prosecuting the matter. Therefore, in my view, though the learned Advocate for respondent Nos. 1 and 2 have given no objection, I deem it appropriate to impose costs on the applicant-appellant.

6. The applications are allowed subject to payment of costs of Rs. 10,000/-. It is pertinent to note that none of the respondents have claimed the costs, so the same is directed to be paid to the High Court Bar Association Library by 11/08/2025.

7. On submitting receipt of payment of costs, First Appeal No.476/2005 shall be restored to its original position, and shall be listed on the Final Hearing Board on 25/08/2025.

9. Call for record and proceedings from the Tribunal forthwith, as the matter is old.

(ABHAY J. MANTRI, J.)